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Confirmation No. 9994Patent JAN 17 2008
Attorney Docket No. GEMS8081.091**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of : Boskamp, Eddy B.
Serial No. : 10/063,550
Filed : May 2, 2002
For : Wireless RF Module For An MR Imaging System
Group Art No. : 3737
Examiner : Smith, Ruth S.

CERTIFICATION UNDER 37 CFR 1.8(a) and 1.10

I hereby certify that, on the date shown below, this correspondence is being:

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☒ transmitted by facsimile to Fax No.: 571-273-8300 addressed to Director Fred Schmidt at the Patent and Trademark Office.

Date: January 17, 2008/Gregory V. Madden/
Signature

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION UNDER 37 C.F.R. 1.181 REQUESTING
WITHDRAWAL OF THE HOLDING OF ABANDONMENT AND REQUESTING
WITHDRAWAL OF THE HOLDING OF NON-COMPLIANT APPEAL BRIEF**

Dear Sir:

Responsive to the Notice of Abandonment mailed November 21, 2007 (copy enclosed), Applicant respectfully requests withdrawal of the holding of abandonment, as well as withdrawal of the holding of non-compliant appeal brief, for the reasons set forth below.

Boskamp

S/N: 10/063,550

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According to the Notice of Abandonment, the present application was abandoned allegedly for Applicant's failure:

"to provide an amended brief or other appropriate correction. The proposed amendment to claim 17 was not entered because it raised new issues. The record fails to show that the examiner agreed to enter the proposed changes to claim 17 upon appeal."

Notice of Abandonment, November 21, 2007

SUMMARY

Applicant disagrees. The record actually does show an agreement between the Examiner and the Applicant to enter the proposed changes to claim 17, albeit before yet another examiner reassignment. Applicant notes that the "record" must include not only the Patent Office part of the record, but also the Applicant's submissions. Applicant timely submitted an Interview Summary indicating an agreement with Examiner, and the Examiner never submitted anything contrary to the Applicant's Interview Summary, nor did the Examiner inform the Applicant that the Examiner disagreed with Applicant's Interview Summary that documented an agreement to enter the amendment to claim 17.

In any case, for the Office to have waited two years to contact the Applicant is in itself an unreasonable delay, but when considering that Applicant actually filed a Response to the Notice of Non-Compliant Appeal Brief on December 1, 2005, for which no reply was ever made to Applicant, and for the Office to wait two years and then to merely send a Notice of Abandonment without a telephone call, appears to be an attempt to clear the docket of a forgotten case of an Examiner who is no longer with the Office. To now reassign the case and simply send a Notice of Abandonment, more than two years after filing an Appeal Brief, is unconscionable. It is also noted that the newly assigned Examiner did not make any attempt to contact the Applicant by phone prior to sending the Notice of Abandonment. It is also noted that the Office's own form for the Notice of Abandonment states thereon that "petitions to revive under 37 CFR 1.137(a) or (b), or request to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term." Surely then the Office should equally act promptly and not delay for two years responding to the Applicant's submission of December 1, 2005.

DETAILED REQUEST

Responsive to the Notification of Non-Compliant Appeal Brief mailed November 2, 2005, Applicant timely filed, on December 1, 2005, a response to the Notification of Non-

Boskamp

S/N: 10/063,550

Compliant Appeal Brief. As noted in the December 1, 2005 response, the Applicant conducted a Telephone Interview with the Examiner on August 17, 2005. The record shows that during the Telephone Interview, the Examiner stated only that the amendments filed by the Applicant in the After-Final Amendment of April 25, 2005 could not be entered because of informalities with respect to claims 5, 19, and 25 (emphasis added). Nowhere on the record is it shown that the Examiner disagreed with the proposed amendment to claim 17 before the Notice mailed November 2, 2005. Apparently, the Office changed examiners during this period.

During the Telephone Interview, the Applicant verbally conveyed the proposed amendments to the Examiner, and the Examiner stated that there would not be any issue with respect to the entry of the proposed amendments and acknowledged that the amendments would overcome the informalities and place the application in condition for appeal. (*See Response to Notification of Non-Compliant Appeal Brief, 12/1/05*). This shows that, prior to appeal, the Examiner did agree to enter the proposed changes to claim 17 on appeal. Accordingly, in response to the Telephone Interview, Applicant filed a subsequent After-Final Amendment, dated August 17, 2005, which corrected the informalities presented by the Examiner with respect to claims 5, 19, and 25. At the time of filing the Appeal Brief on August 23, 2005, the Applicant had no reason not to believe the Examiner and believed that the After-Final amendment dated August 17, 2005 was entered, as per the agreement referenced in the Telephone Interview. Hence, since there was an agreement, and Applicant did document that agreement, and there is no indication on the record by the Examiner to the contrary before the November 2, 2005 Notice, it is believed that the After-Final amendment dated August 17, 2005 was entered and that the Appeal Brief, filed August 23, 2005, is in compliance with 37 CFR 41.37 with respect to claim 17. Because the Appeal Brief filed August 23, 2005 is in compliance with 37 CFR 41.37, Applicant believes that the Notice of Non-Compliant Appeal Brief should never have been issued, and thus, no further response from the Applicant should have been necessary.

Reviewing the file history of this application shows a previous examiner reassignment had also been detrimental to Applicant. As the record indicates, in a Response filed March 15, 2004, the undersigned documented an interview with the Examiner in which the Examiner had agreed to withdraw the finality of the Office Action mailed February 11, 2004. After another year, and a new Examiner, Applicant received another Final Office Action mailed February 23, 2005. Once again, the new Examiner did not acknowledge what the last Examiner did, nor did he even respond to the Interview Summary contained in Applicant's response.

Boskamp

S/N: 10/063,550

Additionally, the Examiner incorrectly stated that claim 17 introduces an amendment that was refused entry because it raised "new issues." As Applicant previously explained, a review of the claims will indicate that the proposed amendment to claim 17 was previously considered (see claims 8, 10, 24 – as one skilled in the art will readily recognize 300 MHz to 3 GHz is the UHF frequency range; March 15, 2004 Response). That is exactly why the previous Examiner had agreed to enter the amendment to claim 17, as is reflected by Applicant's Interview Summary in the responses filed August 17, 2005 and December 1, 2005. Also see Appeal Brief filed August 23, 2005, in which Applicant reasserts the agreement reached with the previous Examiner thereby stating that the §101 and §112 rejections had been overcome by its After-Final Amendment. See February 23, 2005 Final Office Action rejecting claim 17-22 under 35 USC §101 and 35 USC §112.

Accordingly, for the reasons set forth above, Applicant requests withdrawal of the holding of Non-Compliant Appeal Brief, along with withdrawal of the holding of Abandonment.

In order to avoid any further delay, Applicant requests that the Office telephone the undersigned to expedite any unresolved matters with regard to this application.

Respectfully submitted,

/Timothy J. Ziolkowski/

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Dated: January 17, 2008
Attorney Docket No.: GEMS8081.091

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,550	05/02/2002	Eddy B. Boskamp	GEMS8081.091	9994

27061 7590 11/21/2007
ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)
136 S WISCONSIN ST
PORT WASHINGTON, WI 53074

EXAMINER	
SMITH, RUTH S	

ART UNIT	PAPER NUMBER
3737	

NOTIFICATION DATE	DELIVERY MODE
11/21/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

info@zpspatents.com
rlt@zpspatents.com
klb@zpspatents.com

Docketed by: SMDate: 11/22/07

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JAN 17 2008

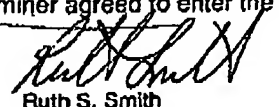
Notice of Abandonment	Application No.	Applicant(s)	
	10/063,550	BOSKAMP, EDDY B.	
	Examiner	Art Unit	
	Ruth S. Smith	3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

- ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 02 November 2005.
 - ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
 (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - ☐ No reply has been received.
- ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - ☐ The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due.
 The issue fee required by 37 CFR 1.18 is \$ _____. The publication fee, if required by 37 CFR 1.18(d), is \$ _____.
 (c) ☐ The issue fee and publication fee, if applicable, has not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☒ The reason(s) below:

Applicant failed to provide an amended brief or other appropriate correction. The proposed amendment to claim 17 was not entered because it raised new issues. The record fails to show that the examiner agreed to enter the proposed changes to claim 17 upon appeal.


 Ruth S. Smith
 Primary Examiner
 Art Unit: 3737

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.